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HOUSE BILL 79

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; AMENDING A SECTION OF
THE PUBLIC EMPLOYEES RETIREMENT ACT CONCERNING THE DISCLOSURE
OF INFORMATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-130 NMSA 1978 (being Laws 1987,
Chapter 253, Section 130, as amended) is amended to read:

"10-11-130. RETIREMENT BOARD--AUTHORITY--MEMBERSHIP.--

A. The "retirement board" is created and is the
trustee of the association and the funds created by the state
retirement system acts and has all the powers necessary or
convenient to carry out and effectuate the purposes and
provisions of the state retirement system acts, including, in
addition to any specific powers provided for in the Public
Employees Retirement Act but without limiting the generality of

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1 the foregoing, the power to:

2 (1) administer the state retirement system
3 acts, including the management of the association and making
4 effective the provisions of those acts, as well as to
5 administer and manage any other employee benefit acts as
6 provided by law;

7 (2) in addition to utilizing services of the
8 attorney general and notwithstanding any other provision of
9 law, employ or contract with and compensate competent legal
10 counsel to handle the legal matters and litigation of the
11 retirement board and the association and to give advice and
12 counsel in regard to any matter connected with the duties of
13 the retirement board;

14 (3) administer oaths;

15 (4) adopt and use a seal for authentication of
16 records, processes and proceedings;

17 (5) create and maintain records relating to
18 all members, affiliated public employers and all activities and
19 duties required of the retirement board;

20 (6) issue subpoenas and compel the production
21 of evidence and attendance of witnesses in connection with any
22 hearings or proceedings of the retirement board;

23 (7) make and execute contracts;

24 (8) purchase, acquire or hold land adjacent to
25 the state capitol grounds or other suitable location and build

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1 thereon a building to house the association and its employees
2 and, in the event additional office space is available in the
3 building after the retirement board and its employees have been
4 housed, to rent or lease the additional space to any public
5 agency or private person; provided that first priority for the
6 rental or leasing shall be to public agencies and further
7 provided that for the purpose of purchasing, acquiring or
8 holding the land and the building thereon, the retirement board
9 may use funds from the income fund and any other funds
10 controlled by the retirement board the use of which for such
11 purposes is not prohibited by law;

12 (9) after the sale of the land and building
13 acquired pursuant to Paragraph (8) of this subsection, acquire
14 land and build thereon a new building to house the association
15 and its employees and hold the building and land in fee simple
16 in the name of the association. In order to acquire the land
17 and plan, design and construct the building, the retirement
18 board may expend the proceeds of the sale of the land and
19 building acquired pursuant to Paragraph (8) of this subsection
20 or any funds controlled by the board, the use of which for such
21 purposes is not otherwise prohibited by law;

22 (10) make and adopt such reasonable rules as
23 may be necessary or convenient to carry out the duties of the
24 retirement board and activities of the association, including
25 any rules necessary to preserve the status of the association

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1 as a qualified pension plan under the provisions of the
2 Internal Revenue Code of 1986, as amended, or under successor
3 or related provisions of law; and

4 (11) designate committees and designate
5 committee members, including individuals who may not be members
6 of the association.

7 B. The retirement board consists of:

8 (1) the secretary of state;

9 (2) the state treasurer;

10 (3) four members under a state coverage plan
11 to be elected by the members under state coverage plans;

12 (4) four members under a municipal coverage
13 plan to be elected by the members under municipal coverage
14 plans, provided one member shall be a municipal member employed
15 by a county; and

16 (5) two retired members to be elected by the
17 retired members of the association.

18 C. The results of elections of elected members of
19 the retirement board shall be certified at the annual meeting
20 of the association. Elections shall be conducted according to
21 rules the retirement board adopts from time to time.

22 D. The regular term of office of the elected
23 members of the retirement board is four years. The term of one
24 retirement board member under a state coverage plan expires
25 annually on December 31. The terms of retirement board members

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1 under a municipal coverage plan expire on December 31 of
2 noncoinciding years in the pattern set by the retirement board.
3 Members of the retirement board serve until their successors
4 have qualified.

5 E. A member elected to the retirement board who
6 fails to attend four consecutively scheduled meetings of the
7 retirement board, unless in each case excused for cause by the
8 retirement board members in attendance, is considered to have
9 resigned from the retirement board, and the retirement board
10 shall by resolution declare the office vacated as of the date
11 of adoption of the resolution. A vacancy occurring on the
12 retirement board, except in the case of an elected official,
13 shall be filled by the remaining retirement board members,
14 without requirement that a quorum be present. The member
15 appointed to fill the vacancy serves for the remainder of the
16 vacated term.

17 F. Members of the retirement board serve without
18 salary for their services as retirement board members, but they
19 shall receive those amounts authorized under the Per Diem and
20 Mileage Act.

21 G. The retirement board shall hold four regular
22 meetings each year and shall designate in advance the time and
23 place of the meetings. Special meetings and emergency meetings
24 of the retirement board may be held upon call of the [~~chairman~~]
25 chair or any three members of the retirement board. Written

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1 notice of special meetings shall be sent to each member of the
2 retirement board at least seventy-two hours in advance of the
3 special meeting. Verbal notice of emergency meetings shall be
4 given to as many members as is feasible at least eight hours
5 before the emergency meeting, and the meeting shall commence
6 with a statement of the nature of the emergency. The
7 retirement board shall adopt its own rules of procedure and
8 shall keep a record of its proceedings. All meetings of the
9 retirement board shall comply with the Open Meetings Act. A
10 majority of retirement board members shall constitute a quorum.
11 Each attending member of the retirement board is entitled to
12 one vote on each question before the retirement board, and at
13 least a majority of a quorum shall be necessary for a decision
14 by the retirement board.

15 H. Annual meetings of the members of the
16 association shall held in Santa Fe at such time and place as
17 the retirement board [~~shall~~] determines from time to time
18 [~~determine~~]. Special meetings of the members of the
19 association shall be held in Santa Fe upon call of any seven
20 retirement board members. The retirement board shall send a
21 written notice to the last known residence address of each
22 member currently employed by an affiliated public employer at
23 least ten days prior to any meeting of the members of the
24 association. The notice shall contain the call of the meeting
25 and the principal purpose of the meeting. All meetings of the

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1 association shall be public and shall be conducted according to
2 procedures the retirement board [~~shall~~] adopts from time to
3 time [~~adopt~~]. The retirement board shall keep a record of the
4 proceedings of each meeting of the association.

5 I. Neither the retirement board nor the association
6 shall allow public inspection of, or disclosure of, information
7 from [~~any~~] a member or [~~retiree~~] a retired member file unless a
8 prior release and consent, in the form prescribed by the
9 association, has been executed by the member or [~~retiree~~]
10 retired member; except that applicable coverage plans, amounts
11 of retirement plan contributions made by members and affiliated
12 public employers and pension amounts paid [~~and the~~] may be
13 produced or disclosed without release or consent. The names
14 and addresses of [~~public employees retirement association~~
15 members or [~~retirees requested for election purposes by~~
16 candidates for election to the retirement board] retired
17 members may be produced or disclosed without release or consent
18 of the member or retired member to candidates for election to
19 the retirement board for election purposes or to a nonprofit
20 retirement organization for that organization's exclusive use
21 if the association is currently withholding a dues deduction
22 for that organization. Information disclosed without release
23 or consent of the member or retired member pursuant to this
24 subsection shall not be distributed or used for commercial
25 purposes."

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